

Notice of Allowability

Application No.

09/748,529

Examiner

Joseph D. Anthony

Applicant(s)

GALLAND ET AL.

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE filed 05/11/04.
2. ☒ The allowed claim(s) is/are 1-10, 13, 15-17, 19-35 [renumbered as 1-10, 11, 12-14, 16, 15, 17-31].
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Joseph D. Anthony
Primary Examiner
Art Unit: 1714

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Raymund F. Eich, Ph.D. on 06/07/04

The application has been amended as follows:

Claim 1 (twice amended) A method of initiating oxygen scavenging in a packaging article comprising an oxygen scavenging polymer, comprising:

providing the packaging article comprising an oxygen scavenging layer comprising the oxygen scavenging polymer, wherein the packaging article comprises an interior surface and an exterior surface;

wetting the interior surface of the packaging article with [a] an aqueous solution comprising a peroxide, to result in a packaging article with a wetted surface; and

exposing the wetted surface to an initiating factor comprising ultraviolet light having a wavelength between about 254 nm and about 400nm, to initiate oxygen scavenging by the packaging article;

wherein said method reduces the induction period for oxygen scavenging as compared to a method wherein the interior surface of the packaging article is not first wetted with a peroxide containing aqueous solution.

In claim 13, line 1, delete "12" and insert therefor --1--.

In claim 17, line 1, delete "12" and insert therefor --1--.

In claim 19, line 1, delete "18" and insert therefor --20--.

Claims 12, 14 and 18 are canceled.

2. The following is an examiner's statement of reasons for allowance: The above examiner's amendment was done to make independent claim 1 more commensurate in scope to the Second Declaration filed Under 37 CFR 1.131 of Anne Ebbesen and the Second Exhibit filed with said Second Declaration. It is clear from both the Second Declaration and the Second Accompanying Exhibit that the packaging article, which both refer to, comprises an oxygen scavenging layer comprising the oxygen scavenging polymer. Furthermore, the initiating process clearly uses an aqueous solution of peroxide that was contacted with the interior surface of the article to wet the surface. Furthermore, the Second Exhibit is clearly drawn to using ultraviolet light as the initiation factor within a specific wavelength range. Finally, the end of independent claim 1 has

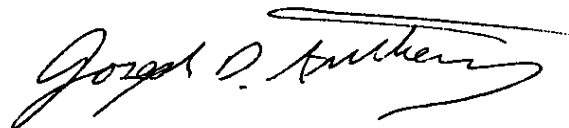
Art Unit: 1714

been modified to clearly point out that the reduction of the induction period for oxygen scavenging is compared to a method wherein the interior surface of the packaging article is not first wetted with a peroxide containing aqueous solution. This clarification helps to further distant applicants' claimed invention from the invention suggested by the previously applied Jerdee et al. Patent.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Examiner Information

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Joseph D. Anthony whose telephone number is (571) 272-1117. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on (571) 272-1119. The centralized FAX machine number is (703) 872-9306. All other papers received by FAX will be treated as Official communications and cannot be immediately handled by the Examiner.



Joseph D. Anthony
Primary Patent Examiner
Art Unit 1714

06/08/04